City of Lafayette Staff Report

To:	Lafayette City Council
From:	Niroop Srivatsa, City Manager
	Tracy Robinson, Administrative Services Director
Meeting Date:	April 14, 2025
Subject:	Resolution 2025-26 Declaring Property at 990 Moraga Road is Exempt Surplus Land

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Introduction

At the January 27, 2025 meeting Council directed staff to return with a draft resolution declaring the Campana Property at 990 Moraga Road is exempt surplus land.

Background

The staff report from January 27th is attached for background and context.

Recommendation

Approve Resolution 2025-26 and submit it to HCD for approval.

City of Lafayette Staff Report

To:	Lafayette City Council
From:	Niroop Srivatsa, City Manager
	Tracy Robinson, Administrative Services Director
Meeting Date:	January 27, 2025
Subject:	**Consider Whether to Market for Sale the Campana Property located at 990 Moraga Road**

Introduction

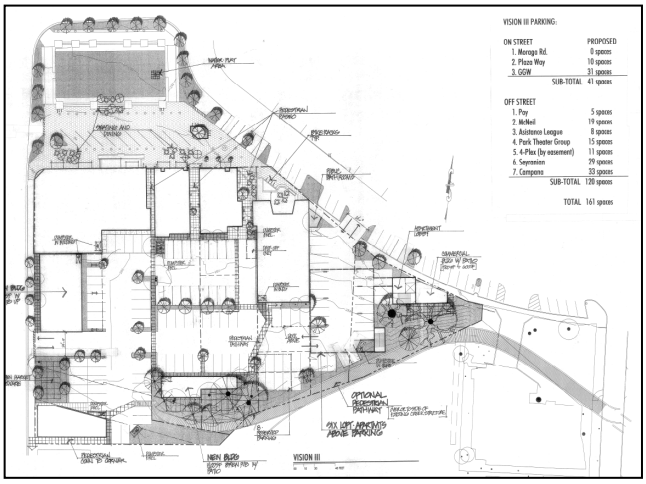
Recently, the City was approached by a potential buyer who is interested in purchasing the Campana property at 990 Moraga Road. Given that the City's original plans for the property are unlikely to come to fruition as explained below, the City should consider putting the property up for sale and allow this parcel to be used for a more suitable purpose.

Background

The Plaza Way Overlay was created in 2012 to increase the supply of off-street parking within the Plaza Way block, improve vehicular and pedestrian circulation, encourage greater private investment, attract unique tenants, preserve historical landmarks, and generate higher levels of activity on Plaza Way and Lafayette Plaza, which together form the heart of downtown Lafayette. Both the Lafayette General Plan and the previous Plaza Park Specific Plan call for the conservation and enhancement of the area "to fully realize its historical importance and strengthen Lafayette's sense of place."

In its review of the Downtown Specific Plan ("DSP"), the Planning Commission identified Plaza Way as an important historical focal point of the Downtown and an area in which the community will gather for civic and cultural events. The DSP called for the protection of its small village character and encouraged retail, restaurants and cafes – uses that would optimize the utilization of the plaza.

The first phase of revitalization took place in 2014 when the property owned by the Poy family at the southeast corner of Moraga Road and Plaza Way was updated and new businesses including Sideboard restaurant moved in. The Poys opted into the Overlay District and committed to work with the City to enlarge the parking lot in the rear of the buildings. Next, the Park Theater Trust acquired the Park Theater properties with plans to renovate the theater into a community-centered cultural hub for patrons of all ages.



One of the key concepts of the Overlay District was the creation of a consolidated parking lot behind the buildings on Plaza Way with vehicular and pedestrian access from Moraga Road (through the Campana property) and Golden Gate Way. The completed lot would have contained over 100 parking spaces – significantly higher than what each individual property provides on their own.

The City purchased the "Campana" property in 2022 as a first step towards realizing this goal. To complete the project, the City would also have had to purchase the "McNeil" property, adjacent to Campana, and the residential buildings behind the Wayside Inn and on the McNeil property would have to be removed.

The City's efforts to acquire the McNeil property did not materialize given price and terms of the purchase. A recent change in State law prohibits the City from enforcing its parking requirements within one-half mile of the BART station (an area which includes Plaza Way) thereby undermining the City's ability to achieve a key goal of the Overlay, i.e., the creation of a large, consolidated parking lot with access from Moraga Road and Golden Gate Way.

Discussion

The City is now in a position where one of the original intended uses for the property has essentially been precluded. The City's ad hoc committee consisting of Vice Mayor and Anduri and Councilmember McCormick discussed various options and concluded that it is in the City's best financial interest to sell the property in order to recoup the City's costs and allow the parcel to be used for a more suitable purpose.

Before the City can begin negotiations with potential buyers for publicly owned property or take other actions toward disposal, the City needs to first comply with the Surplus Land Act.

The California Surplus Land Act (Government Code Section 54220 et seq.) (the "Act") requires all local agencies to prioritize affordable housing, as well as parks and open space, when disposing of "surplus land." The Legislature updated the Act significantly in 2019 to expand its requirements. Before a local agency may dispose of land that is no longer necessary for its use, the land must be declared either "surplus land" or "exempt surplus land," as supported by written findings.

For "surplus land," the City must go through a formal process to offer the land to qualifying entities and negotiate with responsive parties. However, the Act contains exemptions for certain types of land ("exempt surplus land") where this formal process does not apply.

One such exemption, pursuant to Government Code section 54221(f)(1)(B), applies to land that (i) is less than one-half acre in area, and (ii) is not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes. The property would qualify for this exemption under the Act because it is less than one-half acre in area and is not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes.

To utilize the exemption, the City would need to adopt a Resolution declaring the Property as "exempt surplus land" at a regular meeting. The Resolution would explain the rationale behind the exemption. Additionally, under the Department of Housing and Community Development's ("HCD") Surplus Land Act Guidelines ("Guidelines"), which are promulgated pursuant to the Act, the City would then need to submit the adopted resolution to HCD at least 30 days prior to disposal so that HCD could review the exemption declaration and decide whether it agrees.

Once the City has completed these tasks, the City would be free to market and dispose of the property without further regard to the Act. The City's actions to declare the property as "exempt surplus land" do not obligate the City to dispose of the property if the City later desires to change course. The declaration merely enables the City to explore the possibility of disposing of the land.

Recommendation

Direct staff to draft a resolution declaring the property located at 990 Moraga Road as "exempt surplus land" under the Surplus Land Act, return to Council for adoption, and then submit it to HCD for approval.

RESOLUTION 2025-26
BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE
IN THE MATTER OF:

THE CITY COUNCIL OF CITY OF LAFAYETTE DECLARING PURSUANT TO GOVERNMENT CODE SECTION 54221 THAT REAL PROPERTY OWNED BY THE CITY LOCATED AT 990 MORAGA ROAD (APN 243-222-023) IS EXEMPT SURPLUS LAND, AND FINDING THAT SUCH DECLARATION IS NOT A PROJECT SUBJECT TO ENVIRONMENTAL REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of Lafayette (the "City") is the owner in fee simple of that certain real property described in Exhibit "A", attached hereto and incorporated herein, known as APN 243-222-023 which property is approximately 20,908 square feet in size and is located at 990 Moraga Road within City of Lafayette ("Property"); and

WHEREAS, the Property is less than one half acre in area, or 21,780 square feet, and it is not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes; and

WHEREAS, the City no longer has any use for the Property; and

WHEREAS, the Surplus Land Act, Government Code sections 54220 et seq. (as amended, the "Act"), applies when a local agency disposes of "surplus land," as that term is defined in Government Code section 54221; and

WHEREAS, the Property is "surplus land" under the Act, because it is land owned in fee simple by the City for which the City Council will take formal action (in the form of adoption of this resolution) in a regular public meeting declaring that the land is surplus and is not necessary for the City's use; and

WHEREAS, the Property may be declared exempt surplus land if it is less than one-half acre in area and it is not contiguous to state or local agency property used for open-space or low- or moderate-income housing (Government Code section 54221(f)(1)(B)); and

WHEREAS, here the Property is less than one-half acre in area and is not contiguous to state or local agency property used for open-space or low- or moderate-income housing; and

WHEREAS, none of the characteristics listed under Government Code section 54221(f)(2) apply to the Property.

NOW THEREFORE BE IT RESOLVED:

Section 1. The above recitals are true and correct and are a substantive part of this Resolution and findings of the City Council.

Section 2. The City Council hereby finds that (i) the Property is no longer necessary for the City's use, (ii) the Property is smaller than one-half acre in area because it is approximately 20,908 square feet in area, and (iii) the Property is not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes. Finally, none of the characteristics listed under Government Code section 54221(f)(2) apply to the Property.

Section 3. The City Council therefore declares that the Property is exempt surplus land pursuant to section 54221(f)(1)(B) of the Act.

Section 4. This Resolution has been reviewed with respect to the applicability of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"). City staff has determined that the mere designation of the Property as exempt surplus and authorization for the City Manager to comply with the Act do not qualify as a "project" as defined in State CEQA Guidelines section 15378. First, Section 15378 defines a project as an activity that "has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (State CEQA Guidelines, § 15378(a).) Here, the action is to declare the Property as exempt surplus, which will not result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Accordingly, the action is not a "project" subject to CEQA. (State CEQA Guidelines, § 15060(c).) Second, Section 15378 explicitly excludes from its definition of "project" the following: "organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment." (State CEQA Guidelines, § 15378(b)(5).) The action to designate the Property as exempt surplus land constitutes an organizational or administrative activity that will not result in a physical change in the environment, and it therefore is not subject to CEQA. This Resolution does not constitute a binding commitment to any particular use of the Property.

Section 5. The City Manager or designee is hereby authorized and directed to send a copy of this Resolution to the California Department of Housing and Community Development in accordance with the requirements of Section 400(e) of the SLA Guidelines.

Section 6. If any section, subsection, paragraph, sentence, clause or phrase of this Resolution is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Resolution.

Section 7. The City Clerk shall certify to the adoption of this Resolution.

The foregoing Resolution was PASSED AND ADOPTED by the City Council of the City of Lafayette at a regular meeting of said Council on April 14, 2025 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

_____
Joanne Robbins, City Clerk

APPROVED:

_____
Susan Candell, Mayor

ATTACHMENT(S):

1. Exhibit “A” – Property Description

EXHIBIT A

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF LAFAYETTE, IN THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

Parcel A of Record of Survey Map Book 54, Page 9, filed on September 17, 1971, in the Office of the Recorder of Contra Costa County.

PARCEL TWO:

An easement for private driveway purposes over and across the Northern 5.9 feet of the Western 115 feet of Parcel B of Record of Survey Map Book 54, Page 9 filed on September 17, 1971, in the Office of the Recorder of Contra Costa County.

APN: **243-222-023-0**